

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,)	CASE NO.: 1:15CR228
)	
Plaintiff,)	JUDGE DONALD C. NUGENT
)	
v.)	<u>PROPOSED VOIR DIRE QUESTIONS</u>
)	
ROBERT TOTH,)	
)	
Defendant.)	
)	

Now comes the United States of America, by and through counsel, Steven M. Dettelbach, United States Attorney, and Chelsea S. Rice and Bridget Brennan, Assistant United States Attorneys, and submits the following proposed voir dire questions. The United States reserves the right to file supplemental proposed voir dire questions.

I. PROPOSED QUESTIONS

A. Background Questions

1. Where have you resided during the past ten years? Please specify the state, county, and city/township/village of residence over this period.
2. What is your marital status?
3. Do you have children? If so, please describe the age and gender of each child. Please indicate where your children reside, and describe any employment held by them, their spouses and any grandchildren you have.
4. Please tell us about your educational background, and the educational background of your spouse and children.
5. Please tell us about your employment history, and your spouse's employment history.

6. Did you serve in the military? If so, did you enlist or were you drafted? What rank did you attain by the end of your military service? Have you ever sat on, or had any involvement in, a military court-martial?
7. Have you, any member of your family, or a close friend ever worked in law enforcement?
8. Have you, any member of your family, or a close friend had training in law enforcement, criminal justice, or law?
 - a. If so, please describe the education/training.
9. Do you watch, listen to, or read the news?
 - a. If so, how do you receive the news (television, radio, magazines, newspapers, internet, etc.?)
10. Do you watch television?
 - a. If so, what programs do you watch?
11. What books or magazines do you like to read?
12. Do you use the Internet? How much time do you spend each day on the Internet?
What Internet sites do you visit on a regular basis?
13. Do you belong to any clubs, associations, or civic groups, or do you engage in any substantial volunteer activity? Please list any such organizations and describe the level of your involvement (i.e. volunteer, member, officer or board member, etc.).
14. If you are employed:
 - a. Are you the primary source of income in your household?
 - b. Will your employer pay you during your jury service?
 - c. If so, how long?

- d. Do you have other income apart from your regular employment that would continue while you served on a jury?

B. Questions to Elicit Bias

In the event of positive or affirmative responses to the following questions, the juror should be asked if the circumstances are such as to impair his or her ability to serve impartially in this case.

- 15. Do you or any relatives or close friends know the defendant, Robert Toth, or any members of his family?
- 16. Do you or any relatives or close friends know any of the participants in the trial:
 - a. Judge Donald C. Nugent, or any member of Judge Nugent's staff, including the Courtroom Deputy Clerk, his law clerks or his judicial assistant(s);
 - b. Attorneys Kevin Spellacy and Dominic Vitantonio, or anyone employed by, or associated with Attorneys Spellacy or Vitantonio;
 - c. Assistant U.S. Attorneys Bridget Brennan, Chelsea Rice, or any other attorneys or support personnel employed by, or associated with, the United States Attorney's Office for the Northern District of Ohio;
 - d. Federal Bureau of Investigation Special Agents Michael Haynie or Jack Vickery, or any other agents or support personnel of the Federal Bureau of Investigation;
 - e. Any of the following individuals [READ PARTIES' WITNESS LISTS].
- 17. Do you or any relatives or close friends know anyone employed by, or have any connection with, any of the following entities:
 - a. Westlake Police Department
 - b. The City of Westlake

18. Prior to today, have you heard anything about this case or the people involved?

a. If so:

i. What have you heard?

ii. Where did you hear it?

19. Have you ever been a juror in a civil or criminal case? If so, please describe the type of case, time and place or the trial, whether you were foreperson, and whether you had participated in a deliberations resulting in a jury verdict. If so, what was the jury's verdict in the case?

20. Have you ever served on a grand jury? Federal or state?

21. Have you or any relatives or close friends ever been investigated, arrested, charged, or convicted in any criminal case, except minor traffic offenses? (A minor traffic offense is an offense not involving death or the use of alcohol.) If so, please provide details concerning nature of charges and the final resolution of the charges. Were you satisfied with law enforcement's handling of the matter? Were you satisfied with the way the judicial system handled the matter? Do you believe that you, your relative or close friend were treated fairly?

22. Have you or any relatives or close friends ever been a victim of a crime? If so, please provide details.

23. Have you or any relatives or close friends had an experience with law enforcement officers that has caused you to have a strong feeling for or against law enforcement officers?

24. Have you ever been a party to a lawsuit or have you ever been a witness in a trial, grand jury, or other legal proceeding?

25. Have you or any of your relatives or close friends ever been employed by any prosecutor's office, law enforcement agency, or other governmental agency, whether at the federal, state or local level? If so, please provide details.
26. Have you or any of your relatives or close friends been employed by anyone involved in criminal defense work, such as private defense attorneys, public defenders, private investigators, or jury consultants? If so, please provide details.
27. Have you or any of your relatives or close friends ever had any dispute with the United States government, such as filing a claim against the government, having a claim filed against you by the government, or having a penalty assessed against you? If so, please provide details.
28. Have you, any family members, or close friends ever been denied any type of permit or license by any agency of the United States government? If so, please provide details.
29. Do you now, or have you ever had a bumper sticker on your vehicle? If so, what was the saying on the bumper sticker?
30. Without revealing any political affiliations or beliefs, have you personally been involved in any political protests?
- a. If so, was the experience positive? Why?
 - b. If so, was the experience negative? Why?
31. Would you tend to give greater or lesser weight to the testimony of a law enforcement officer simply because of his or her profession?
32. A criminal case begins with an indictment. An indictment is merely used to inform the defendant of the violation that she is alleged to have committed. An indictment is

not evidence of guilt, nor does it change the fact that a defendant is innocent of the charges in the indictment unless the Government proves each and every element of the offenses charged beyond a reasonable doubt. This is called the presumption of innocence. Do any of you believe that a defendant should be considered guilty until proven innocent?

33. The law states that since an accused person does not have the burden of proof, the accused person is not required to testify on his own behalf. Will you hold it against the Defendant if he decides not to testify?

34. Since the Defendant is not required to prove his innocence, he is not required to present any evidence on his own behalf. If the defense chooses not to present any evidence in this case, will you hold it against the Defendant?

35. Do you believe that our laws provide criminals with too many rights? Too few rights?

36. Do you feel the federal government goes too far in protecting civil rights? If so, how and in what ways?

37. Do you believe that there are circumstances under which police officers should not have to obey the law like everyone else?

a. If so, describe those circumstances.

38. Some people feel that because law enforcement officers perform a difficult job, it is wrong to second guess them by prosecuting them for wrongful conduct. How do you feel about this?

39. Would you have any reluctance to judge the actions of a police officer accused of using excessive force or obstructing justice?

40. If the United States proves its case against the defendant beyond a reasonable doubt, would any member of the jury panel hesitate to return a verdict of guilty because the defendant was a law enforcement officer?

C. Jurors' Ability to Serve, and Willingness to Serve Impartially

41. Do you have any health problems or any impairment of your sight or hearing that would make it difficult for you to serve as a juror in this case? If so, please provide details.

42. Does any member of your immediate family have any medical or personal problems of such a nature that it would interfere with your ability to serve as a juror in this case? If so, please provide details.

43. Do you have any difficulty:

- a. Speaking, reading, or understanding English?
- b. Seeing, hearing, sitting, or have any health problems that would make it difficult for you to follow what is happening in the courtroom?

44. (The Court is requested to explain generally the laws to the burden of proof, presumption of innocence, the duty to follow the Court's instructions and to decide the case only on the evidence in law presented, the duty to deliberate based on one's own conscience giving due respect to the opinions of others only after hearing all evidence and instructions, and then determine if each juror understands these principles and is fully willing to abide by them).

45. Do you know any other reason why you cannot serve fair and impartially in this case? If so, please provide details.

46. We anticipate this case to last approximately 1.5 weeks. Do you have any vacation, work meetings, or other significant life events planned for the next 1.5 weeks?
47. Do you hold any religious, philosophical, moral, or other beliefs that would make it difficult for you to judge the actions of another person?
48. If at the conclusion of the case you were to find that you disagreed with the law as given to you by the Court, would you still be able to follow the law and be able to reach a verdict by applying that law to the evidence?
49. Is there anything else about you that you believe that the parties should know about?
If so, please provide details.

Respectfully submitted,

STEVEN M. DETTELBACH
United States Attorney

By: /s/ Chelsea S. Rice
Bridget M. Brennan (OH: 0072603)
Chelsea S. Rice (OH: 0076905)
Assistant United States Attorneys
United States Court House
801 West Superior Avenue, Suite 400
Cleveland, OH 44113
(216) 622-3810/3752
(216) 522-7358 (facsimile)
Bridget.Brennan@usdoj.gov
Chelsea.Rice@usdoj.gov

CERTIFICATE OF SERVICE

I hereby certify that on this 29th day of January 2015, a copy of the foregoing document was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. All other parties will be served by regular U.S. Mail. Parties may access this filing through the Court's system.

/s/ Chelsea S. Rice

Chelsea S. Rice

Assistant U.S. Attorney